

A

REVIEW

OF THE

STATE

OF THE

BRITISH NATION

Thursday, March 10. 1709.

SAFE and HONOURABLE was the Word in my last relating to Peace; *Such a Peace or no Peace* is the Doctrine, let the Application be what it will. But now two Questions arise, and as I am speaking without Doors only, it is necessary to premise them.

1. Have the *French* really propos'd Peace, have they offer'd Preliminaries, and made such Concessions as are a sufficient Ground of a Treaty, or have they not? — Otherwise to talk of Peace thus warmly, is the most Out-of-Season Business in the World.
2. What are the particular Significations of the Words SAFE and HONOURABLE, as they respect this Treaty?

Some are very angry, that *Britain* should listen to any Peace; the old Author of the *Observer's* Notion was very good; if we were fighting for Conquest, and not for Safety, viz. To revive the Queen's Claim to *Anjou, Poitou, Normandy, Gascony, &c.* Depose the *French* King, say our warm Gentlemen, make Peace with him! No, no, down with him, tear him to peices, let his Peace be in the Grave, and let *English* Men possess his Towns and Ports, as they did *Bordeaux*, for above 200 Years.

This requires no great Answer — This we may do, as the *French* Man said, *when we can catch* — But after that, could you possess all those Parts of *France* we formerly possess'd; it would ruin us, we would be undone, the open Commerce which Incorporations

porations of that Nature would make here — Would spoil us; we that are so afraid of bringing Strangers among us, tho' they are our Wealth in the End; what would become of us then? — But I wave that, and to come to Peace, without entering into any of the *Arena* of publick Transactions. I suppose,

EITHER, The *French* offering Terms, and those Terms now under Debate among the Confederates;

OR, The Confederates (knowing that Terms must be offer'd, and that perhaps it may come to a Necessity of treating of it in the Field, which must be short Work) concerting and adjusting among themselves the Pretensions and Demands of every particular Ally, and determining upon what Foot and no other, they will treat.

Upon this Supposition I may be allow'd to talk of Peace; and what if I should, af-

ter the worthy and laudable Example of the *Daily-Courant*, give you a Scheme of a Peace—— I'll promise you, if I do, *I'll not beg Pardon for it the next Day*, no tho' all the Ambassadors, Envoy's, Agents, &c. of Europe found Fault with it; I'll take Care it shall be so just, that no Body shall have Reason to find Fault—— And they that find Fault without Reason are none of my Concern, by whatsoever Empires, Kingdoms, Dutchies, Principalities, Governments, Titles, or Powers, they are dignified or distinguish'd.

But O the Treaty of *PARTITION*! You won't have the Impudence to bring that upon the Stage again, will you? Says one to me—— No, no, Gentlemen, I'll be sure to say nothing of that, because no villainous Rascal shall have Room to revive that Barbarism of *FELONIOUS*, and insult the Queen upon it, as did her Royal and Glorious Predecessor.

Of the Laws about Insolvent Debtors.

IN giving my List of Particulars, I mean of the several Classes of Miserables in this Nation, whom we call Insolvents, I promis'd to explain my self as to the last Article, *Viz.* Those in actual Confinement, and subdivide them again: The Number of these I call 5000, who are actually immur'd and kept close, and many of whom without Parliamentary Relief must perish there, having no Hope of Liberty, but by Death or an Act of Parliament, which Act, I confess, I do not see so much Hopes of, as I once thought I should, I mean as to its extending to the Relief of such whose Debts are considerable, tho' their Distresses equal, if not exceed those who are in for smaller Sums.

I shall therefore divide the Supposed Number of 5000 into the following Parts; and tho' it is done but by probable Conjecture, yet if I am near the Truth, 'tis as exact as the Argument I am upon requires.

- i. Of these 5000, I suppose, of meaner Tradesmen, poor Handicrafts, and labouring People, whose Debts are from one Hundred Pounds downward about two Thousand—— These live most of them in the common Sides, and are there sed by the Basket, as 'tis call'd, or live by begging at the Grates of the Prisons; and tho' many of them suffer Hardship enough, yet generally speaking, these live better than many in the Master-Sides of Prisons, whose Wants are inexpressible.
2. Of more Capital Tradesmen, Gentlemen, and some Clergymen, whose Characters and Education, rather than Substance, have prevented going among the other, that cannot beg or feed on the Basket, but endure a Thousand more Miseries and Extremities than those that do, whose Hardships and Sufferings are born with Silence and Mourn-

Mourning of Soul, rather than Noise and loud Complains: Of these I believe, there languishes, for I cannot call it living, in the several Gaols of this Nation, two Thousand more; of these 'tis observable, there dies Three for One of the first Sort, and that more miserably.

3. There are a higher Sort yet, and these consist of such Tradesmen and Gentlemen, who tho' not able to pay their Debt, and free themselves, have yet something left to bear them up under Prison-Charges, tho' it is wasting every Day, as well by the chargeable subsisting in Prison, as by their Families abroad; all their Affairs suffering a general Shipwreck, and the industrious Hands lock'd up from looking after their own Affairs. These are wasting and consuming, and being without Prospect of Deliverance, tho' for the present they LIVE, yet are hastening a-pace to the Miseries of the first two Classes; and these I reckon to be about 800.

4. There are yet remaining 200, more miserable than the worst of the other; and these are such as seem condemn'd to perpetual Imprisonment, seal'd up to Darkness and Oblivion, Men that ought to bid the World Good-Night. *Les Enfants Perdus*, in a true literal Sense, *lost Men*, given up to Death, and murder'd by inexorable Creditors. Generally these are Sacrifices to Revenge, private Grudge; and every unchristian Passion; and such is the Severity of the late Act, that there seems no Possibility of Escape for them, pay they never *can*, and without Pay the Law will not release them. These are such as are in upon Extents from the Crown, or the new murthering Writ; as I call it, or Escape-Warrant, as the Law calls it: I believe, I am very much within Compass, when I reckon up these but 200, among whom are a great many Gentlemen of Worth, and of great Personal Merit, but unhappy to the last Degree; and some of these have continued in this

Condition of the first Sort 2. 10. to 15 Years, till they are grown grey in their Misfortunes, and are quite lost to their Families; and of the last, several ever since the first Month of the Act, which is now about 4 Years old.

And now, Gentlemen, are these Men to be pitied or no? Is Human Nature capable of Cruelty? Can it be imagin'd, that a Man who has lain 7, 8, or 10 Years in Prison can pay? Is it not Punishment enough to satisfy any Man's Revenge? Is it possible, the Rage of a Creditor can hold so long for a meer Debt? If the Debtor cannot pay, and can give you an Account how he became unable, is it fit to keep a Fellow-Creature longer in Misery?

What signifies Acts of Parliament to relieve poor Creatures for Trifles, whose Circumstances are sometimes worse out than in? The Misery lies in these People I am speaking of, who are loaded with Debt as with a Crime unpardonable; that being perfectly unable, are kept up and continu'd unable, and punish'd more for Debt, than others are for Robbery.

But say some, they are not unable—What, lie in Prison, and yet able to pay! What Sort of Creatures are they, and how will you convince any Man to the World, that a Man who lies in Prison is able to pay?—But suppose Human Nature so far degenerate, that a Man could choose a Prison with Knavery, rather than Liberty and Honesty. This might be for some Time. But how many Years could that Defence of Spirit hold? I cannot but think it may be ventur'd upon as a true Rule, he that lies in Prison for Years and Ages, as 7. 10. 12. 15 Years, by the Obstinacy of a Creditor, it may be presum'd, is not able to pay and obtain his Liberty; Seven Year is a long Apprenticeship to a Gaol, and he that serves it, certainly wants Money to buy his Freedom, or else I know not what Rule to judge by.

I might now go back to our Laws, and it is not difficult to prove, that not only other Nations do not deal thus with their poor Insolvents, but also that it was not the

the Intent and Meaning of our most Early Laws, that the Person of the Debtor should be arrested or attach'd in *Mejne* Process.

As to the common Law of England, according to the true Intent thereof, the first Process in Actions of Debt, Account, Covenant, &c. is a Summon, the next an Attachment of the Goods, and then a Distress *ad infinitum* upon the Lands and Goods, till the Defendant appears, but upon the Return of *Nihil habet in Balliva mea, & quod summoneri potest, nec est inventus in eadem*, a Capias issues. So likewise in Actions upon the Case, Trespass, &c. the first Process is an Attachment of the Goods, and then a Distress, &c. but upon the Return of *Nihil habet & quod attachiari potest, nec est inventus*, &c. a Capias and Process of Outlawry. It's clearly evident, that the Design of the Law of England in this Respect agrees with the Civil Law, and that of Scotland, that the Person shall not be ordinarily subject to arrest in the first Process; but here by a Sort of Practice, contrary to the Intent of the Law, the Attorneys or Under-Sheriffs return a *Nihil* of Course, and so take out Capias's universally in all Cases, and subject Peoples Liberty to be a Prey to Serjeants and Bailiffs, who commit horrid and intolerable Extortions sometimes by Fobb or sham Actions, at other times by excessive high Actions for small Debts, and often for a Debt of 10 or 20s. it costs a poor Man in Custody under an Arrest 30 or 40s. Now by the Law of England, lies a good Action upon the Case for returning a *Nihil* as aforesaid, whereby to subject to a Capias the Person of a Man who has an Habitation, and is not fugitive nor absconding.

The Abuses of Arrests have been long complain'd of, as you may see by the Statute of 8 Eliz. cap. 2. which was made to remedy, but the same is unredress'd, tho' since endeavour'd to be reform'd by later Statutes, viz. 12 or 13 Car. 2. and as to the Principality of Wales, and Counties Palatine, it is Enacted by a late Statute in King William's Reign, that no Process shall issue out of the Courts of *Westminster* to arrest there and hold to Bail, unless Affidavit be first made and filed of the Cause of Action, and Bail to be taken for no more than the Sum sworn to, &c.

Moreover by the Customs of the City, I mean the true and genuine recited in the Books of the City Law, the Body is not to be arrested, unless it be first testify'd by credible Witnesses, that the Debtor is fugitive, or like to withdraw, &c. And at this time, tho' it be common with them there, upon Actions entred to arrest, yet when they made up their Records, and certifie them to the Courts above, they suggest first a Command *Viva Voce* to the Serjeants at Mace to summon the Defendant, and then a Return of *Nihil* as above, and so a Capias, &c.

To what then are we corrupted, and how has the Practice of the Lawyers alter'd the very Meaning of the Law, and under this Error of Practice, how many Thousands of Souls perish in this Nation, to reform this the present Law will not extend, but it may relieve the miserable Sufferers, and indeed there is need enough for it. I shall next shew you how remote also it was from the Thoughts of our Fore-Fathers, to let the Debtor, after he is a Prisoner, perish in Prison, and this I shall quote very good Authority for.

ADVERTISEMENT.

Just publish'd,
THE SCOTS NARRATIVE
Examin'd, with a Vindication of the Magistrates of *Edinburgh* in particular, and the Government of *Britain* in general, in their Proceedings against the *Episcopal Dissenters in Scotland*. (Price 6d.)

Lately Publish'd,
A New Description of the World, delineating *Europe, Asia, Africa, and America*; with a Map and Tables of the Empires, Kingdoms, Provinces, and Cities therein, together with a Chronological and Historical Account of the Emperors, Kings, Princes, Governments, Religion, Languages, Customs, Commodities, Revolutions, and Rareties thereof. By *H. Curson*, Gent. Sold by *John Morphew*, near *Stationers Hall*. (Price 2s.)